



THE ATTORNEY GENERAL OF TEXAS

PRICE DANIEL
ATTORNEY GENERAL

AUSTIN 11, TEXAS

April 22, 1947

Hon. George H. Sheppard
Comptroller of Public Accounts
Capitol Station
Austin, Texas

Opinion No. V-160

Re: Whether the Comptroller
has authority to pass
an account for payment
to the Highway Depart-
ment for services ren-
dered by it to the
Austin State School for
streets within the school
ground.

Dear Sir:

Your statement and request for an opinion
is as follows:

"I am enclosing an account of the
Texas Highway Department against the
Austin State School for services render-
ed by the maintenance forces of district
No. 14, Texas Highway Department, for re-
conditioning certain streets within the
Austin State School grounds.

"The Highway Department asked to be
reimbursed as follows:

- "1. Services of employees of the
Highway Department.
- "2. Rent on state owned equipment.
- "3. Materials furnished.

"Question: Is there legal authority
for passing this account in whole or in
part for payment."

Article 6673, V.C.S., reads as follows:

"The Commission is authorized to take over and maintain the various State Highways in Texas, and the counties through which said highways pass shall be free from any cost, expense or supervision of such highways. The Commission shall use the automobile registration fees in the State Highway Fund for the maintenance of such highways, and shall divert the same to no other use unless the Commission shall be without sufficient funds from other sources to meet Federal aid to roads in Texas, and in such case the Commission is authorized by resolution to transfer a sufficient amount from such fund to match said Federal aid."

Article 6674, V.C.S., provides in part as follows:

"* * * All money herein authorized to be appropriated for the operation of the Department and the purchase of equipment shall be paid from the State Highway Fund, and the remainder of said fund shall be expended by the Commission for the furtherance of public road construction and the establishment of a system of State highways as herein provided."

Article 6674e, reads as follows:

"All moneys now or hereafter deposited in the State Treasury to credit of the "State Highway Fund", including all Federal aid moneys deposited to the credit of said fund under the terms of the Federal Highway Act and all county aid moneys deposited to the credit of said fund under the terms of this act shall be subject to appropriation for the specific purpose of the improvement of said system of State Highways by the State Highway Department." (Emphasis added).

Article 6674q-5, provides:

"All moneys now or hereafter deposited in the State Treasury to the credit of the "State Highway Fund" including all Federal aid money deposited to the credit of said

fund under the term of the Federal Aid Highway Act, shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said system of State Highways by the State Highway Department." (Emphasis ours).

From the above stated statutes, we therefore conclude that the Highway Department is authorized to expend money for the construction or maintenance of the State Highway system only, and is not authorized to build streets within the grounds of another State Department, viz, the Austin State School.

In Opinion No. 0-1475, this Department held that the Texas Highway Department was without authority to improve the streets at Camp Kulen since the streets did not comprise a part of the system of highways of this State. We are enclosing a copy of this opinion.

Opinion No. 0-420 of this office held that the Highway Department did not have the authority to request the Board of Control to purchase out of highway funds supplies which were to be used for the purpose of sale to other departments of the State, and that without a pre-existing law one State Department could not charge another department for services rendered. We are enclosing a copy of this opinion.

We have found no law that would authorize the Highway Department to recondition streets within the Austin State School grounds, and no law that would authorize payment to the Department for such work out of Austin State School funds.

SUMMARY

The Comptroller of Public Accounts is without authority to pass for payment an account of the Highway Department for services rendered by it to the Austin State School for streets within the school grounds.

Yours very truly

APPROVED: Apr. 23, 1947

ATTORNEY GENERAL OF TEXAS


ATTORNEY GENERAL

By


Robert A. Hall
Assistant

RAH/JMc/dr/lh